

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

In re:

SCOTT T. LAY,

Debtor.

SCOTT T. LAY,

Appellant,

v.

IAN M. MCLEOD, et al.,

Appellees.

CASE NO. C24-5502 BHS

ORDER

THIS MATTER is before the Court on Appellant Debtor Scott T. Lay's appeal, Dkt. 1 at 8, of the Bankruptcy Court's June 13, 2024 Order, Dkt. 1 at 6, lifting the 11 U.S.C. § 362(a) Automatic Stay as it applied to his secured creditors, the Colin and Ian

1 McLeod, and the property located at 10307 Wright Bliss Rd. NW, Gig Harbor,
2 Washington 98329.

3 Lay's brief was due September 3, 2024. Dkt. 4. He did not file a brief. Appellees'
4 brief, Dkt. 5, asserts that Lay did not seek a stay of the Bankruptcy Court's Order, and
5 that the Chapter 61.24 RCW non-judicial foreclosure on the property securing his debt
6 has since been completed. Dkt. 5 at 2. They argue that Lay's appeal is now moot and that
7 Lay has failed to prosecute his appeal, and that for each reason his appeal should be
8 dismissed. *Id.*

9 There is no evidence and no argument that Lay sought to stay the Bankruptcy
10 Court's Order under Federal Rule of Bankruptcy 8007. "It is well established that an
11 appeal will be dismissed as moot if a debtor fails to obtain a stay pending appeal of a
12 bankruptcy court order granting relief from the automatic stay and the moving creditor
13 subsequently conducts a foreclosure sale, as the appellate court cannot grant any effective
14 relief." *In re Egbert Development, LLC*, 219 B.R. 903, 905 (10th Cir. BAP 1998)
15 (collecting cases, including *Algeran, Inc. v. Advance Ross Corp.*, 759 F.2d 1421, 1423-25
16 (9th Cir. 1985)).

17 Based on the foreclosure, and the failure to prosecute, this appeal is moot. It is
18 **DISMISSED.**

19 The clerk shall close the case.

20 **IT IS SO ORDERED.**

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1 Dated this 15th day of October, 2024.

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4 BENJAMIN H. SETTLE
5 United States District Judge
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